

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW HAMPSHIRE

Adam H. Nagle

v.

Civil No. 08-cv-413-JL

New Hampshire State Prison, et al.

**O R D E R**

Pro se plaintiff Adam H. Nagle has filed a complaint, pursuant to 42 U.S.C. § 1983, alleging that defendants have violated his rights under the Eighth Amendment to the United States Constitution and New Hampshire law (document no. 1). Seeking injunctive and monetary relief, he brings this action against two employees of the New Hampshire State Prison ("NHSP"): Warden Richard M. Gerry<sup>1</sup>; and corrections officer Parent (first name unknown). The complaint is before me for preliminary review to determine whether, among other things, it states a claim upon which relief might be granted. See 28 U.S.C. § 1915A; United

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<sup>1</sup>I liberally construe the claim against the NHSP to be brought against Gerry in his representative capacity as Warden of the NHSP.

States District Court for the District of New Hampshire Local Rule ("LR") 4.3(d)(2).

For the reasons stated in the report and recommendation issued simultaneously herewith, I find that Nagle has stated the following claims against Parent in his individual capacity: (1) Eighth Amendment claim alleging use of excessive force; and (2) related state law claim alleging intentional infliction of emotional distress. I recommend dismissal of all remaining claims.

As Nagle has filed the necessary summons form, I order the complaint to be served on Parent. The Clerk's Office is directed to serve the New Hampshire Office of the Attorney General (AG), as provided in the Agreement On Acceptance Of Service, copies of this order, the report and recommendation and the complaint (document no. 1). See LR 4.3(d)(2)(C). Within thirty days from receipt of these materials, the AG will submit to the court an Acceptance of Service notice specifying those defendants who have authorized the AG's office to receive service on their behalf. When the Acceptance of Service is filed, service will be deemed made on the last day of the thirty-day period.

If defendant does not authorize the AG's office to receive service on his behalf or if the AG declines to represent him, the AG shall, within thirty days from receipt of the aforementioned materials, provide the last known address of defendant. The Clerk's Office is instructed to complete service on this individual by sending to him, by certified mail, return receipt requested, copies of these same documents.

Defendant is instructed to answer or otherwise plead within twenty days of acceptance of service. See Fed. R. Civ. P. 12(a)(1)(A).

Plaintiff is instructed that all future pleadings, written motions, notices, or similar papers shall be served directly on the defendant by delivering or mailing the materials to him or his attorney(s), pursuant to Fed. R. Civ. P. 5(b).

**SO ORDERED.**

  
James R. Muirhead  
United States Magistrate Judge

Date: December 18, 2008

cc: Adam H. Nagle, pro se